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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

ARTURO BECERRIL,

Defendant and Appellant.

F078533

(Super. Ct. No. BF160647A)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Kern County. Michael E. Dellostritto, Judge.

Patrick J. Hennessey, Jr., under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

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* Before Detjen, Acting P.J., Smith, J., and Snauffer, J.

STATEMENT OF APPEALABILITY

This appeal is from a final judgment following a hearing on appellant Arturo Becerril's request for relief under Senate Bill No. 620 (Stats. 2017, ch. 682, § 2). It is authorized by Penal Code section 1237, subdivision (b).¹

STATEMENT OF THE CASE

Becerril had been convicted by a jury of multiple offenses, including assault with a firearm on a peace officer (§ 245, subd. (d)(1)), possession of a firearm by a felon (§ 29800, subd. (a)(1)), assault with a firearm (§ 245, subd. (a)(2)), and attempted vehicle theft (§ 664; Veh. Code, § 10851, subd. (a)). The jury found true a personal use of a firearm enhancement under section 12022.53, subdivision (b) in counts four, six and eight under section 12022.5, subdivision (a). In a separate proceeding, the court found true a five-year serious felony enhancement under section 667, subdivision (a), a one-year prison prior under section 667.5, subdivision (b), and an allegation Becerril had a prior strike conviction under section 667, subdivisions (b)-(i).

On March 11, 2016, Becerril was sentenced to a total term of 34 years and four months in state prison. This included an upper term of eight years on his assault on a peace officer charge which was doubled under the Three Strikes Law. Also added was a 10-year firearm enhancement under section 12022.53, subdivision (b). The court imposed a consecutive two-year term on the assault with a firearm conviction and 16-month terms on the firearm enhancements under section 12022.5, subdivision (a). Also added was the five-year felony enhancement under section 667, subdivision (a).

In an unpublished opinion filed on July 17, 2018, Becerril's conviction was affirmed in all respects other than for remand to the Superior Court to determine whether the trial court would exercise its new discretion under Senate Bill No. 620 as to the firearm enhancements. (*P. v. Becerril* (Jul. 17, 2018, F073396 [nonpub. opn.]) The

¹ Subsequent statutory references are to the Penal Code unless otherwise noted.

Court of Appeal concluded the amendments under Senate Bill No. 620 applied to Becerril and the case should be remanded to allow the court to exercise its discretion.

On November 30, 2018, the Superior Court resentenced Becerril, striking the firearm enhancements. Becerril was then sentenced to the upper term of 16 years on the assault on a police officer with a firearm.² The court also ordered a consecutive term of two years on count six, assault with a firearm. Added to this was a five-year term for the prior allegation under section 667, subdivision (a). The total term was 23 years. A \$300 restitution fine and a \$300 parole revocation fine remained in place. Becerril was given credit for 520 days of presentence custody. A notice of appeal was filed on December 11, 2018. On April 22, 2019, the trial court, in response to a letter from Becerril under section 1237.2, filed an Amended Abstract of Judgment, striking all fines and penalties. The court also stayed the restitution fines.

STATEMENT OF FACTS

The charges giving rise to Becerril's conviction arose from a June 26, 2015 incident when Becerril was attempting to steal a vehicle in a parking lot in Bakersfield, California. He was approached by several people who sought to intervene. He pulled a firearm from his waist and pointed it in the direction of those who confronted him. He then ran from the area. The citizens flagged down a California Highway Patrol officer who began looking for Becerril. A short time later the officer saw Becerril running on a nearby street. During the pursuit Becerril stopped, pulled out a handgun, and pointed it in the officer's direction. He then tripped over the curb. No shots were fired. When Becerril got up, he discarded the weapon. He was caught a short time later without further incident.

² Although the trial court referred to it as an upper term of 16 years, it was in fact the upper term of 8 years doubled under the Three Strikes law.

APPELLATE COURT REVIEW

Becerril's appointed appellate counsel has filed an opening brief that summarizes the pertinent facts, raises no issues, and requests this court to review the record independently. (*People v. Wende* (1979) 25 Cal.3d 436.) The opening brief also includes the declaration of appellate counsel indicating that Becerril was advised he could file his own brief with this court. By letter on April 30, 2019, we invited Becerril to submit additional briefing. To date, he has not done so.

After independently reviewing the entire record, we have concluded there are no reasonably arguable legal or factual issues.

DISPOSITION

The judgment is affirmed.